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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,052	08/21/2003	Lewis Albert Haws	ITW-14144	6538

7590 02/06/2004

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EXAMINER
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TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/645,052

**Applicant(s)**

HAWS, LEWIS ALBERT

**Examiner**

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a method of manufacture, classified in class 493, subclass 394.
- II. Claims 7-15, drawn to an apparatus for controlling tension, classified in class 493, subclass 114.
- III. Claims 16-24, drawn to an apparatus with means for guiding the elongated structure, classified in class 493, subclass 180.
- IV. Claims 25-27, drawn to a method for controlling tension with pulling the zipper material through first and second rollers in a direction toward the packaging machine, classified in class 493, subclass 214.
- IV. Claims 28 and 29, drawn to a method of manufacture with pulling the trailing portion of the second elongated structure through the nip by advancing the joined portion of the first forward during a second portion of the work cycle, classified in class 493, subclass 71.
- VI. Claims 30-36, drawn to a system comprising the first zipper strip interlocked with a second zipper strip zipper, classified in class 493, subclass 927.
- VII. Claims 37-39, drawn to a system comprising the first zipper strip interlocked with a second zipper strip zipper and the zipper processing machine comprises a slider insertion device, classified in class 493, subclass 115.

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The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Groups (II & III) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as one with the step of forming a nip through the zipper material while passing through first and second rollers.

Inventions Groups (IV & IIV) and Group I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have the step of applying a torque to a roller in contact with the second elongated continuous structure at a nip located upstream of the joining station. The subcombination has separate utility such as the step of applying a torque to a roller in contact with the second elongated continuous structure at a nip located upstream of the joining station.

Inventions Group I and Groups (VI & VII) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this

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case the process as claimed can be practiced by another materially different apparatus such as one without the packaging machine comprises a joining station whereat a portion of the first zipper strip is joined to a portion of a continuous packaging material during a first portion of a work cycle

Inventions Group II and Group III are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have a torque control device with the output torque having a magnitude sufficient to produce a desired tension in the portion of the second elongated continuous structure disposed between the nip and the joining station. The subcombination has separate utility such as a torque control device with the output torque having a magnitude sufficient to produce a desired tension in the portion of the second elongated continuous structure disposed between the nip and the joining station.

Inventions Group IV and Group II are related as process and apparatus for its practice.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as one with means to pull the zipper material through a nip formed by first and second rollers and in a direction toward the packaging machine.

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Inventions Group IIV and Group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as one with means for pulling the trailing portion of the second elongated continuous structure through the nip by advancing the joined portion of the first continuous forward during a second portion of the work cycle.

Inventions Group I and Groups (VI & VII) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have the packaging machine comprises a joining station whereat a portion of the first zipper strip is joined to a portion of a continuous packaging material during a first portion of a work cycle nor means for advancing the continuous packaging material during a second portion of the work cycle. The subcombination has separate utility such as the packaging machine comprises a joining station whereat a portion of the first zipper strip is joined to a portion of a continuous packaging material during a first portion of a work cycle and means for advancing the continuous packaging material during a second portion of the work cycle.

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Inventions Group IV and Group III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as one with means for pulling the zipper material through a nip formed by first and second rollers and in a direction toward the packaging machine.

Inventions Group IIV and Group III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as one with means for pulling the trailing portion of the second elongated continuous structure through the nip by advancing the joined portion of the first continuous forward during a second portion of the work cycle.

Inventions Groups (VI & VII) and Group III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have the output torque having a magnitude sufficient to produce a desired tension in portion of the

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second elongated continuous structure disposed between the nip and the joining station. The subcombination has separate utility such as the output torque having a magnitude sufficient to produce a desired tension in portion of the second elongated continuous structure disposed between the nip and the joining station.

Inventions Group IIV and Group IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have pulling the zipper material in a direction toward the packaging machine. The subcombination has separate utility such as pulling the zipper material through a nip formed by first and second rollers and in a direction toward the packaging machine.

Inventions Group IV and Groups (VI & VII) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(c)). In this case the apparatus as claimed can be used to practice another and materially different process such as one with the step of interlocking the first zipper strip with the second zipper strip.

Inventions Group IIV and Groups (VI & VII) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed

can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as one with the step of interlocking the first zipper strip with the second zipper strip.

Inventions Group VI and Group VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have the zipper processing machine comprises a slider insertion device and tension control means for maintaining a substantially constant tension of the zipper material in a zone from the slider insertion device to the joining station during the first portion of each work cycle. The subcombination has separate utility such as the zipper processing machine comprises a slider insertion device and tension control means for maintaining a substantially constant tension of the zipper material in a zone from the slider insertion device to the joining station during the first portion of each work cycle.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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A telephone call was made to Mr. Dennis M. Flaherty on 2/2/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
Art Unit 3721

ST.

